



# Commonwealth of Massachusetts State Ethics Commission

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**SUFFOLK, ss.**

**COMMISSION ADJUDICATORY  
DOCKET NO. 648**

## **IN THE MATTER OF ROBERT MANZELLA**

### **DISPOSITION AGREEMENT**

The State Ethics Commission and Robert Manzella enter into this Disposition Agreement pursuant to Section 5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented-to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On October 16, 2001, the Commission initiated, pursuant to G.L. c. 268B, §4(j), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Manzella. The Commission has concluded its inquiry and, on November 13, 2001, found reasonable cause to believe that Manzella violated G.L. c. 268A.

The Commission and Manzella now agree to the following findings of fact and conclusions of law:

#### **Findings of Fact**

1. Manzella was, during the time relevant, a member of the Rockland Zoning Board of Appeals ("ZBA"). As such, Manzella is a municipal employee as that term is defined in G.L. c. 268A, §1.

2. Manzella & DiGrande Incorporated is a Massachusetts family-operated property management firm. At all times relevant herein, Manzella served as the assistant vice-president, Manzella's father as president and treasurer, and Manzella's mother as vice-president and clerk. The business is located in an office/warehouse park it owns in Rockland called Town Line Park.

3. On May 30, 1997, Manzella & DiGrande filed a petition with the ZBA for a public hearing so that the corporation could seek a special permit for the construction of a cellular tower at Town Line Park.

4. On July 9, 1997, the ZBA held a public hearing on special permits. Manzella participated in the hearings until the Manzella & DiGrande special permit application came before the ZBA. At that point, Manzella stated that Manzella & DiGrande was his family's business and that he was recusing himself. Manzella left the meeting table and sat in the audience. Manzella went to the podium and presented Manzella & DiGrande's petition. He also answered questions posed by the ZBA members about the matter. The discussion lasted approximately 20 minutes.

5. The ZBA voted unanimously to grant the special permit. (Consistent with his having recused himself, Manzella did not vote on this permit.)

6. In April 1998, Bell Atlantic entered into a contract with Manzella & DiGrande to construct a cellular tower at Town Line Park. The 20-year contract called for Bell Atlantic to pay Manzella & DiGrande a monthly rental fee of \$1,100 per month, with a three-percent yearly increase in rent built into the contract.

7. Manzella cooperated with the Commission's investigation.

#### Conclusions of Law

8. Section 17(c) of G.L. c. 268A prohibits a municipal employee, otherwise than in the proper discharge of official duties, from acting as agent for anyone other than the municipality in relation to a particular matter in which the town has a direct and substantial interest.

9. The ZBA's decision whether to grant a special permit for a cellular communications tower was a particular matter in which the town had a direct and substantial interest.

10. By appearing before the ZBA and advocating on behalf of Manzella & DiGrande regarding the special permit application particular matter, Manzella acted as Manzella & DiGrande's agent.

11. Manzella's appearance was in relation to the particular matter, the ZBA's decision regarding the special permit application.

12. Manzella's appearance was not within the proper discharge of his official duties.

13. Therefore, by acting as Manzella & DiGrande Inc.'s agent in relation to a particular matter in which the town had a direct and substantial interest, Manzella violated §17(c).<sup>1/</sup>

#### Resolution

In view of the foregoing violations of G.L. c. 268A by Manzella, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Manzella:

(1) that Manzella pay to the Commission the sum of \$2,000 as a civil penalty for violating G.L. c. 268A, §17(c): and

(2) that Manzella waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

**DATE: November 28, 2001**

<sup>1/</sup>It should be noted that on the May 30, 1997 petition, Manzella wrote, "If the town of Rockland is awarded a personal wireless facility at #490 Market Street, Rockland, MA, (where a new police station was to be constructed) this special

permit will be withdrawn.” According to Manzella, several communications companies considered constructing a cellular tower at the police station site. Manzella stated he would withdraw his petition and allow the town to receive the rental fees from a communications company for siting a cellular tower on town property. [Ultimately, no communications company sought to build a cellular tower at the police station site because it was located in a residential area.] While Manzella’s willingness to forego the potential permit and alternatively allow the town to receive the rental fees from a cellular tower suggests civic-mindedness, it is not a defense to a conflict of interest violation.